

PLANNING COMMISSION

October 22, 2008

Meeting Report

ROLL CALL

PRESENT: Commissioners' Campos, Do, Jensen, Kalra, Kamkar, Zito

ABSENT: Platten

1. DEFERRALS

- a. **PDC07-017**. Planned Development Rezoning to allow the demolition of existing structures and the construction of up to 47 single-family attached residential units and 6 live/work lofts on a 1.16 gross acre site, located on the west side on Lincoln Avenue extending from W. San Carlos Street on the south to Pacific Avenue on the north, excluding the northwest corner of W. San Carlos Street and Lincoln Avenue (275, 285 Lincoln Avenue, 1141, 1165, 1177 W. San Carlos Street, 966 Pacific Avenue)(James & Tina Jean, Owner). Council District 6. SNI: None. CEQA: Mitigated Negative Declaration. *PROJECT MANAGER, B.ROTH*

**DROPPED AT REQUEST OF THE APPLICANT (6-0-1; PLATTEN
ABSENT)**

- b. **C08-043**. Conventional Rezoning from Commercial Neighborhood (CN) zoning district to Multiple Residence (R-M) Zoning District for future development of 3 single-family residential units on a 0.19-gross acre site, located on the northwest corner of S. 2nd Street and Martha Street (895 S 2ND ST). A separate Site Development Permit application would need to be approved for the future development of 3 units at the site. (Rose M and Leslie J Fazekas Trustee, Owner). Council District 3. SNI: Spartan/Keyes. CEQA: San José 2020 General Plan Final EIR. *PROJECT MANAGER, E.SAMONSKY*

**DROPPED AT REQUEST OF THE APPLICANT (6-0-1; PLATTEN
ABSENT)**

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<http://www.sanjoseca.gov/planning/hearings/>

- c. **ORDINANCE AMENDMENT.** An ordinance of the City of San José Amending these portions of Title 20 of the Municipal Code. (1) Chapter 20.30, Sections 20.30.500 to allow the square footage of accessory structures to match those of garages, (2) Chapter 20.30, Sections 20.30.520 to clarify the minimum separation required for accessory buildings and accessory structures, (3) Chapter 20.90, Section 20.90.220, to allow by right parking reductions to one-car garages for single-family residences located in the R-1, R-2 and R-M Residence Zoning Districts, and (4) Chapter 20.100, Section 20.100.500, to allow minor additions to two-family dwellings provided current parking regulations are being followed. *PROJECT MANAGER, A.BATY*

DEFERRED TO 11/5/08 AT REQUEST OF STAFF (6-0-1; PLATTEN ABSENT)

- d. **ORDINANCE AMENDMENT.** An ordinance of the City of San José Amending Title 20 of the San José Municipal Code, the Zoning Code, to (1) Amend Section 20.50.010 of Chapter 20.50 to establish the CIC Combined Industrial/Commercial Zoning District and to clarify the IP Industrial Park, LI Light Industrial and HI Heavy Industrial Zoning Districts; (2) Amend Section 20.50.100 to change the “CM” denotation to “C^{gp}” and to allow uses with the “C^{gp}” denotation with a conditional use permit on properties designated mixed industrial overlay or combined industrial/commercial by the general plan, to establish use regulations for the CIC combined Industrial/Commercial Zoning District, to allow laboratory, medium manufacturing and assembly, and warehouse uses as a permitted use in the IP Industrial Park Zoning District; to add research and development office, mortuary without funeral services, and warehouse retail as enumerated uses, to allow crematory uses with a conditional use permit in LI Light Industrial Zoning Districts, to eliminate day care center as a conditional use in the HI Heavy Industrial Zoning District with a mixed industrial overlay, and to add autobroker, wholesale, no on-site storage as a permitted use in the IP Industrial Park Zoning District; (3) Add section 20.50.113 to clarify use regulations for public eating establishments in the LI Light Industrial or HI Heavy Industrial Zoning Districts; (4) Add section 20.50.130 to establish regulations for warehouse retail; (5) Amend section 20.50.200 to establish development regulations for the CIC combined Industrial/Commercial Zoning District; Amend Section 20.90.060 of Chapter 20.90 to establish parking requirements for research and development office, mortuary without funeral services, and warehouse retail; (6) Amend Section 20.100.500 of Chapter 20.100 to allow above-ground storage tanks 2,000 gallons or less with a permit adjustment; (7) Amend Chapter 20.200 to define mortuary and funeral services, mortuary without funeral services, research and development office, and warehouse retail; and make other related clarifying changes and amendments. CEQA: Negative Declaration, PP08-124. *PROJECT MANAGER, S.DO*

DEFERRED TO 11/5/08 AT REQUEST OF STAFF (6-0-1; PLATTEN ABSENT)

- e. **NORTH SAN JOSÉ AREA DEVELOPMENT POLICY**: North San José Design Guidelines and Implementation Strategy to supplement and provide implementation tools for the previously adopted North San José Area Development Policy. The North San José Design Guidelines provide North San José–specific guidance to both private and public development and include guidelines for Site Planning, Buildings, Parking, Parks and Public Art. The Implementation Strategy includes more specific, technical guidance for the implementation of the adopted policy with respect to Transportation (Grid Street System, Traffic Impact Fee, Public Facilities (Parks, Libraries), Retail, Affordable Housing and a Neighborhood Plan. Council Districts 3 & 4. SNI: N/A. *PROJECT MANAGER, R.BUIKEMA*

DEFERRED TO 11/19/08 AT REQUEST OF STAFF (6-0-1; PLATTEN ABSENT)

2. CONSENT CALENDAR

- a. **CP08-020**. Conditional Use Permit to allow the demolition and reconstruction of a gasoline service station and minimart, and addition of a new car wash facility; with 24-hour operation of the facility and to allow continued off-sale of alcoholic beverages (from 6:00 a.m. to 2:00 a.m.), on a 0.8 gross acre site, in the CG Commercial General Zoning District, located on the northwest corner of Capitol Avenue and Berryessa Road (1141 N CAPITOL AV)(BP West Coast Prods LLC, Owner). Council District 4. SNI: None. CEQA: Exempt. *PROJECT MANAGER, S.SAHA*

APPROVED (6-0-1; PLATTEN ABSENT)

- b. **CP08-057**. Conditional Use Permit to demolish existing industrial use buildings and allow construction of 100,500 square feet for retail commercial uses, off-sale of alcoholic beverages for future tenants, and to allow a drive-through use for a pharmacy use on an 8.19 gross acre site in the CN Neighborhood Commercial Zoning District, located on northwest corner of Brokaw Road and Oakland Road (1015 E BROKAW RD)(Brokaw Ventures LLC, Owner; Dollinger Properties Scott Athearn, Developer). Council District 4. SNI: None. CEQA: Addendum to EIR. *PROJECT MANAGER, E.SCHREINER*

APPROVED (5-0-1-1; PLATTEN ABSENT; DO ABSTAINED)

- c. **CP08-066**. Conditional Use Permit to allow a 1,600 square foot medical office, in an existing 6,000 square-foot industrial condominium office building in a 98,000 square-foot industrial park office development on a 7.5 gross acre site, in the IP Industrial Park Zoning District, located at 6110 Hellyer Avenue (Building E)(Hellyer Commons LLC, Owner). Council District 2. SNI: None. CEQA: Exempt. *PROJECT MANAGER, C.BURTON*

APPROVED (6-0-1; PLATTEN ABSENT)

- d. [CPA05-041-01](#). Conditional Use Permit Amendment to allow expansion of a post-secondary school use in a portion of an existing office building, involving no new construction, on a 2.9 gross acre site in the IP Industrial Park Zoning District, located on the northeast corner of Concourse Drive and Lundy Avenue (2160 Lundy Avenue, Suite 128)(Jel Partners, LLP, Owner). Council District 4. SNI: None. CEQA: Exempt. *PROJECT MANAGER, C.BURTON*

APPROVED (6-0-1; PLATTEN ABSENT)

- e. [PDC05-068](#). Planned Development Rezoning from A Agriculture Zoning District to A(PD) Planned Development Zoning District to allow the construction of up to 11,844 square feet for religious assembly uses on a 1.0 gross acre site, located on the north side of Story Road, approximately 80 feet easterly of Dominick Way (14671 STORY ROAD)(Wat Lao Buddhaxinaram, Owner). Council District 5. SNI: None. CEQA: Exempt. *PROJECT MANAGER, B.ROTH*

APPROVED (6-0-1; PLATTEN ABSENT)

The following items are considered individually.

3. PUBLIC HEARING

- a. [ORDINANCE AMENDMENT](#). An ordinance of the City of San José Amending Title 20 of the San José Municipal Code, the Zoning Code, to (1) Amend Section 20.40.100 of Chapter 20.40 to allow the sale of passenger vehicles, pick-up trucks not exceeding 25 feet in length, and motorcycles with a special use permit in the CN Commercial Neighborhood District, add retail art studios as an enumerated use, add outdoor dining incidental to a public eating establishment as an enumerated use; (2) add Section 20.40.140 to establish regulations for retail art studios in Commercial Districts; (3) Amend Section 20.40.250 to revise the front setback exception for Commercial Districts; (4) Amend Section 20.40.520 to allow outdoor dining within 150 feet of residentially zoned property subject to certain restrictions; (5) Amend Section 20.80.1420 of Chapter 20.80 to revise the provisions for outdoor private property special events; (6) Amend Section 20.90.060 of Chapter 20.90 to establish parking requirements for retail art studios and outdoor dining incidental to a public eating establishment, and clarify parking requirements for private uses; (7) Amend Chapter 20.200 to define instructional art studios, retail art studios, and outdoor dining incidental to a public eating establishment; and (8) to make other related clarifying changes and amendments. CEQA: Negative Declaration, PP08-124. *PROJECT MANAGER, S.DO*

RECOMMENDED APPROVAL (6-0-1; PLATTEN ABSENT)

- b. [PD07-067](#). APPEAL of the Planning Director's decision to approve a Planned Development Permit for the construction of a 36-unit family shelter and 94 residential apartments on a 1.72 gross acre site with at-grade and underground parking, in the A(PD) Planned Development Zoning District, located at the northeasterly side of North King Rd, 400 feet south of Mabury Rd (686 N. King Road)(Kathy Robinson % Charities Housing Development, Developer). Council District 3. SNI: N/A. CEQA: Use of a Master EIR, Resolution No. 74195.1. *PROJECT MANAGER, A.BATY*

DENIED (6-0-1; PLATTEN ABSENT)

- c. [CP07-107](#). Conditional Use Permit to (1) allow a residential care facility for up to 122 residents in an existing 3-story multi-family residential building at 439 S. 4th Street (including exterior changes to the structure) and (2) allow renovation of an existing, adjacent building at 451 S. 4th Street for staff and office uses related to the care facility on an approximately 0.52 gross acre site, in the CG General Commercial Zoning District, located on the west side of South 4th Street, approximately 250 feet southerly of East San Salvador Street (439 - 451 S 4TH ST)(439 S 4th St LLC, A California Co, Owner). Council District 3. SNI: University. CEQA: Exempt. *PROJECT MANAGER, E.SAMONSKY*

DENIED (4-2-1; CAMPOS & KALRA OPPOSED; PLATTEN ABSENT)

- d. [CP08-050](#). Conditional Use permit to allow the off-sale of alcohol at an existing retail store (Discount Cigarettes) on a 0.92 gross acre site in the CP Pedestrian Commercial Zoning District, located on the northeast corner of Meridian Avenue & Branham Lane (4614 MERIDIAN AV)(Sakura Financial Group Inc., Owner). Council District 9. SNI: None. CEQA: Exempt. *PROJECT MANAGER, E.SCHREINER*

DENIED (4-2-1; KAMKAR & ZITO OPPOSED; PLATTEN ABSENT)

- e. [PDC07-046](#). Planned Development Rezoning from CN Commercial Neighborhood Zoning District to A(PD) Planned Development Zoning District to allow an outdoor dining patio for an existing restaurant on a 0.375 gross acre site, located on the south side of Hamilton Avenue approximately 320 feet easterly of Meridian Avenue (Tomato Thyme Restaurant)(1560 HAMILTON AV) (John D. Smith, Trustee & et al, Owner). Council District 6. SNI: None. CEQA: Mitigated Negative Declaration. *PROJECT MANAGER, E.SCHREINER*

RECOMMENDED APPROVAL WITH CONDITIONS OF A MAXIMUM OF 119 INDOOR SEATING, A MAXIMUM OF 50 OUTDOOR PATIO SEATING, AND NO SIMULTANEOUS USE OF PATIO AND BANQUET AREA BETWEEN 4:00 P.M. TO 6:00 P.M. DAILY (4-1-1-1; JENSEN OPPOSED; PLATTEN ABSENT; DO ABSTAINED)

4. PETITIONS AND COMMUNICATIONS

Public comments to the Planning Commission on nonagendized items. Please fill out a speaker's card and give it to the technician. Each member of the public may address the Commission for up to three minutes. The commission cannot take any formal action without the item being properly noticed and placed on an agenda. In response to public comment, the Planning Commission is limited to the following options:

- 1) Responding to statements made or questions posed by members of the public; or
- 2) Requesting staff to report back on a matter at a subsequent meeting; or
- 3) Directing staff to place the item on a future agenda.

None

5. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES

None

6. GOOD AND WELFARE

a. Report from City Council

None

b. Commissioners' Report from Committees:

(1) Norman Y. Mineta San José International Airport Noise Advisory Committee (Campos).

Meeting in November.

(2) Envision San José 2040 General Plan Update Process (Kamkar).

Meeting Monday, October 27th

c. Review of synopsis for 10/8/08.

Approved (6-0-1; Platten Absent)

d. Consider Study Session dates and/or topics and reschedule of Annual Retreat.

Confirmed November 6, 2008 for Annual Retreat, from 8:00 a.m. to 3:30 p.m.

ADJOURNMENT